

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

PHILLIP M. ADAMS, et al.,
Plaintiffs,

vs.

GATEWAY, INC., f/k/a GATEWAY 2000,
INC., a Delaware corporation,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING GATEWAY'S
MOTION IN LIMINE TO EXCLUDE
SOURCE CODE FOR
HPFDC.EXE.

Case No. 2:02-CV-106 TS

This matter is before the court on Gateway's Motion in Limine to Exclude Source Code for HPFDC.EXE. Gateway seeks to exclude evidence on the source code because it contends that the source code was not produced during discovery. The Court will deny the Motion for two reasons. First, Adams represents that it will not seek to introduce the source code at trial. Second, the Magistrate Judge's Sealed Order Regarding Expert Access to Source Code,¹ the Magistrate's second order on the subject,² was clear that

¹Docket No. 308.


²See Docket No. 171

source code did not need to be turned over to Gateway's expert. Those Orders involved the source code for FDCCHECK. Because the rulings cover the general issue of source code in this case, it is not necessary to determine the correctness of Gateway's current position³ that the HPFDC.EXE is a version of the FDCCHECK source code. The Magistrate's rulings were affirmed by this Court⁴ and are the law of the case. It is therefore

ORDERED Gateway's Motion in Limine to Exclude Source Code for HPFDC.EXE (Docket No. 531) is DENIED.

DATED this 30th day of March, 2006.

BY THE COURT:



TED STEWART
United States District Judge

³Docket No. 531 at 1.

⁴Docket No. 400.